

A public hearing by the Public Safety & Regulatory Services Committee is scheduled for Wednesday, April 10, 2002 at 1:30 p.m. in Room 317 City Hall, Minneapolis, MN.

For further information about this document, contact Connie Fournier at 612-5824.

**Proposed Ordinance  
By Niziolek**

**Amending Title 12, Chapter 248 of the Minneapolis Code of Ordinances relating to Housing: Truth in Sale of Housing.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the above-entitled ordinance be amended by adding a new Chapter 248A entitled "Truth in Sale of Housing" to become effective June 1, 2002:

**CHAPTER 248A. TRUTH IN SALE OF HOUSING**

**248A.10. Definitions.** For the purpose of this chapter the following terms shall mean:

*Available for sale:* The implementation of any of the following actions including, but not limited to, advertising the sale of the dwelling, entering into a listing agreement to sell the dwelling or posting a sign that the dwelling is for sale.

*Certificate of approval:* A certificate issued by the city verifying completion of the repairs required by section 248A.80.

*Cross connection:* Any connection or arrangement, physical or otherwise, between a potable water supply system and any plumbing fixture, or tank, receptacle, equipment or device through which it may be possible for nonpotable, used, unclean, polluted, or contaminated water or other substance to enter any part of such potable water system under any condition.

*Disclosure report:* The written evaluation report, prepared and signed, by a person licensed as a Minneapolis truth-in-sale of housing evaluator pursuant to this chapter on a form in compliance with this chapter.

*Dwelling:* A building or portion of a building which is designed to be occupied for residential purposes but containing not more than two (2) individual dwelling units.

*Dwelling unit:* Any habitable room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

*Evaluation:* An inspection of a dwelling or dwelling unit, performed by a licensed evaluator to determine the condition of the structural, electrical and mechanical systems as they relate to chapter 244 of the City of Minneapolis Housing Maintenance Code.

*Evaluator:* A person who holds a current license from the City of Minneapolis to conduct truth-in-sale of housing evaluations.

*Information page(s):* Any information page(s) that the city may require to be attached to the disclosure report or code compliance certificate or orders and provided to the owner and to the buyer.

*Re-evaluation:* An amended disclosure report filed as a result of a reinspection of the subject dwelling or dwelling unit, conducted by the original evaluator, within the period of time the disclosure report is valid. The re-evaluation does not extend the expiration date of the original evaluation.

*Repair:* To restore to a sound, acceptable state of operation, serviceability or appearance. Repairs shall be expected to last approximately as long as would the replacement by new items.

*Replace or replacement:* To remove an existing item or portion of a system and to construct or install a new item of a quality similar to that of the existing item when it was new. Replacement ordinarily takes place when repair of the item is impractical.

*Required repair/replace item:* A condition or defect as defined in section 248A.80 of this chapter, that when identified on the disclosure report, must either be repaired or replaced, then re-inspected and approved by a City of Minneapolis inspector.

*Time of closing:* The time of execution of any document providing for the conveyance of title or possession of a dwelling whether or not absolute title is transferred including but not limited to conveyance by contract for deed.

*Time of sale:* The time when a written purchase agreement is executed by the buyer, or, in the absence of a purchase agreement, prior to the execution of any document providing for the conveyance of title or possession of a dwelling whether or not absolute title is transferred including but not limited to conveyance by contract for deed.

**248A.20. Required acts.** (a) Any owner or representative of the owner who makes available for sale any single- or two-family dwelling or townhouse that is not condemned requiring a code compliance by implementing any of the following actions including, but not limited to, advertising the sale of the dwelling, entering into a listing agreement to sell the dwelling or posting a sign that the dwelling is for sale, shall, within three (3) calendar days of any such action, have an evaluation by a licensed evaluator or have an evaluation scheduled.

(1) A disclosure report shall be prepared only by persons licensed as truth-in-sale of housing evaluators under section 248A.200.

(b) Any owner or representative of the owner who makes available for sale any single- or two-family dwelling or townhouse that is condemned requiring a code compliance by implementing any of the following actions, including, but not limited to, advertising the sale of the dwelling, entering into a listing agreement to sell the dwelling or posting a sign that the dwelling is for sale, shall, within three (3) calendar days of any such action, have a valid certificate of code compliance as set forth in section 89.15 of this Code or a copy of the orders issued as a result of a code compliance inspection or the inspection scheduled and paid for.

(1) A code compliance certificate or orders of code compliance shall be prepared only by the City of Minneapolis inspections division.

(c) All required repair/replace items identified on a truth-in-sale of housing disclosure report must be completed by the buyer within ninety (90) days after the date of closing. The city does not assume any responsibility or liability if the buyer's funds are not sufficient to cover the costs of all required work. If the property is not sold, this section does not require the seller to complete the repairs.

**248A.30. Seller disclosure required.** (a) The truth-in-housing disclosure report, the code compliance orders or certificate of code compliance shall all contain a statement signed by the owner or representative of the owner:

(1) As to any damage to the dwelling or its contents by:  
a. flooding  
b. sewer backup due to flooding.

(2) Any evidence of chronic water seepage of which the owner has experience or knowledge.

(3) Age and condition of roof:  
a. currently leaking  
b. patched.

(b) Further, no owner or representative of the owner shall sell such dwelling without providing to the buyer a statement of the nature, extent and cause of any water seepage or flooding of any portion of the property within the knowledge of the owner.

All such reports and certificates or orders are deemed not valid without the signed statement.

**248A.40. Availability of documents.** (a) A separate disclosure report, code compliance certificate, or code compliance orders shall be prepared for each dwelling.

(1) The disclosure report, certificate or orders shall be available at the time the dwelling is first shown.

(2) At all times each dwelling or dwelling unit that is for sale shall have a valid disclosure report, certificate or orders conspicuously displayed at the premises.

(b) A valid disclosure report, code compliance certificate or code compliance orders issued for the dwelling along with any required information page(s) shall be provided to the buyer before or at the time of sale of the dwelling, and at the time of closing.

**248A.50. Resale of dwellings.** (a) A disclosure report is valid for one (1) year from the date of its issuance. The report is valid only for the owner listed on the report.

(b) A code compliance certificate is valid for one (1) year from the date of issuance. The certificate is valid only for the owner listed.

(c) Code compliance orders are valid for one (1) year from the date of issuance. The orders are valid only for the owner listed.

**248A.60. Exceptions.** The provisions of this chapter do not apply to:

(1) Any newly constructed dwelling when title is transferred to the first owner.

a. Any owner, representative of the owner, builder, general contractor or other representative must comply with Minnesota Statutes, Section 327A regarding disclosure information and new home warranties.

(2) The sale or transfer of title of any dwelling to a public body.

(3) The sale or transfer of title of any dwelling for the purpose of demolition.

(4) The sale or conveyance of any dwelling by sheriff or other public or court officer in the performance of their official duties. This exemption does not apply, however, to the sale of a dwelling by a person appointed by a probate court.

**248A.70. Disclosure report.** The city shall prepare or authorize the use of such form or forms as it may deem appropriate to constitute a disclosure under section 248A.20 and this section.

(1) The disclosure report shall provide information concerning minimum code requirements applicable to existing single- and two-family dwellings, and townhouses which, when not complied with, constitute:

- a. A major structural defect.
- b. An immediate danger to the health and safety of the occupant.
- c. A violation of the minimum housing code.

(2) The information shall indicate, with appropriate comments, whether the condition at the time and date of the evaluation:

- a. Meets minimum city requirements.
- b. Is below minimum city requirements.
- c. Is a suggested correction; repair/replace is recommended but not required.
- d. Is a required repair/replace item as specified in section 248.80.
- e. Is not applicable/does not apply.

(3) It shall be assumed that any concealed facilities and installations that are not viewed are adequate, based on the functional operations of the facilities and installations and the condition of the equipment that is viewed.

(4) Nothing in the disclosure report shall indicate, or shall be deemed to indicate, that such dwelling meets all minimum housing and building standards. No warranty is expressed or implied.

(5) The disclosure report shall also indicate:

- a. Whether or not there are housing orders pending regarding the property issued by the inspections division, City of Minneapolis.
- b. Whether the property is condemned or not.
- c. The dwelling's current zoning status.
- d. A discrepancy with city records regarding number of units.
- e. Whether the property is conforming or nonconforming.

**248A.80. Correction of required repair/replace items.** (a) The following items, when discovered by the evaluator by a visual inspection, shall be identified as required repair/replacement items in the disclosure report.

(1) Heating systems that are unsafe, requiring certification by a licensed contractor due to burned out or rusted heat exchangers; burned out, rusted, or plugged flues; improper vents.

(2) Water heaters that are unsafe, requiring certification by a licensed contractor due to burned out or rusted heat exchangers; burned out, rusted or plugged flues; improper vents; or improper or missing temperature and pressure relief valves or discharge pipe.

(3) Electrical systems that are unsafe, requiring certification by a licensed contractor due to dangerous overloading; damaged or deteriorated equipment; improperly tapped or spliced wiring; exposed uninsulated wires; temporary distribution systems; or ungrounded systems.

(4) Plumbing systems that are unsafe due to cross connection.

(5) Smoke detectors that are improperly located, missing, or inoperable.

(6) Lack of required utilities.

(7) Gas piping systems that are unsafe due to unapproved, improper, or uncapped lines.

(b) When correcting or certifying the required repair/replace items, the owner or licensed contractor shall obtain all necessary permits from the city and comply with all city ordinances

**248A.100. Condemned properties, code compliance orders.** (a) No occupancy shall be permitted of any dwelling that is condemned requiring a code compliance until such time that all orders are complied with, inspected, approved and a certificate of code compliance issued.

(1) All requirements concerning condemned properties in section 89.15 of this Code must be complied with.

(b) When correcting the items from a code compliance inspection, the owner or licensed contractor shall obtain all necessary permits from the city and comply with all city ordinances.

(c) Any owner of a condemned property may sell the property "as is" as long as the owner has met the disclosure requirements in sections 248A.20, 248A.30 and 248A.40.

**248A.110. Issuance of certificate of approval.** (a) If after the evaluation the dwelling is found to be in compliance with the requirements of this chapter, or after all required repairs/replacements or code compliance orders are completed and approved, or if the owner has a valid certificate of code compliance as per section 89.15 of this Code, a certificate of approval shall be issued to the owner or owner's representative.

(1) The certificate shall state the address of the property evaluated, the owner or owner's representative, and the owner or owner's representative address, report number, and issue date, that the structure has been inspected and is in compliance with the requirements of this section. The report shall be signed by the director of inspections, or the director's designee.

(b) If the city finds that circumstances following the issuance of a certificate of approval involve new violations of repair/replace items a new inspection may be required in order to satisfy the requirements of section 248A.80.

(c) The certificate of approval shall be valid only with the original Truth-in-Sale of Housing evaluation, code compliance orders or code compliance certificate attached.

**248A.120. Appeals board, appointment, terms.** (a) Appeals board shall be established with members appointed by the city council, and shall consist of ten (10) members. The membership shall include the director of inspections, or the director's designee, the executive director of the Minneapolis Community Development Agency, or the executive director's designee, an attorney representing the city attorney's office, and a public representative from each of the following: the financial community, the real estate business, a person experienced in construction, one (1) member each from the Minnesota Society Of Housing Inspectors (MSHI) and the American Society of Home Inspectors (ASHI), and two (2) from the general public.

(b) The director of inspections, or the director's designee, the executive director of the Minneapolis Community Development Agency, or the executive director's designee, and an attorney representing the city attorney's office shall serve in a nonvoting capacity.

(c) Each appointment shall be for a period of two (2) years and shall continue until a replacement has been duly appointed and qualified.

(d) Each public member shall be compensated fifty dollars (\$50.00) per meeting attended, not to exceed six hundred dollars (\$600.00) per year.

(e) Public members of the board must reside in the city.

**248A.130. Meetings of the board.** Regular meetings of the board shall be held monthly or otherwise as needed.

**248A.140. Duties of the board.** (a) The appeals board shall elect a chair who shall preside over meetings of the board and a vice-chair who shall preside in the absence of the chair.

(b) The director of inspections, or the director's designee, shall act as secretary to the board and shall have the duty to keep all records.

(c) The following shall be the duties of the board:

(1) Adopt rules and procedures for appeals.

(2) Make available copies of such rules and procedures.

(3) Hear and act upon all appeals. The board may modify, sustain, or quash all or any portion of any order, interpretation, requirement, decision, or other determination made by the director of inspections, or the director's designee. The board may not grant exceptions to the code or act on other unrelated appeals.

(d) The secretary shall keep minutes of the board meetings including a record of votes, findings, and decisions, official actions, and appeals.

**248A.150. Right to appeal, procedures.** (a) Any applicant or evaluator aggrieved by any administrative decision of the director of inspections, or the director's designee, in accepting or rejecting any application for examination; in any determination of whether the person is qualified; in any issue related to the testing process; in accepting or rejecting educational credits; or to deny, revoke, suspend or not renew an evaluator's license may make an appeal to the board.

(b) Any owner of property or other person directly and personally affected by any required repair/replace order may, either personally or through their representative, make an appeal to the board.

(c) Any appeal must be by written notice filed with the inspections division within thirty (30) days of the decision.

(1) The payment of a fee in the amount of one hundred dollars (\$100.00) will accompany the submission of the appeal from owners or their representative to cover administration and handling costs.



(d) The board shall hear the appeal and render its decision within forty-five (45) days of the filing of the notice of appeal.

(1) Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to the appellant by mail, addressed to the appellant at the appellant's address shown on the appeal.

**248A.160. Hearings and decisions.** (a) All meetings before the board shall be public and shall be posted.

(b) A record shall be kept of the proceedings.

(c) The board may, at its option, make specific findings and/or conclusions in connection with any decision upon any appeal.

(d) All decisions by the board shall become final when notice is communicated to the appellant or representative in writing and shall become effective and enforceable at such time or at such alternative time as specified therein.

(e) Decision of the appeals board, with respect to these duties shall be final, subject to appeal to the Minneapolis City Council. Any board decision or order to an evaluator or owner or their representative filing the appeal, shall include a written statement notifying them of the right to appeal that order or decision to the city council.

(f) Any applicant, evaluator, owner or their representative aggrieved by a decision of the board may appeal such decision to the city council by filing a written request with the city clerk within fifteen (15) days of receipt of the board's decision.

(1) If an appeal is filed, the city clerk shall, within two (2) weeks, fix a date for a public hearing.

(2) The city clerk shall mail a notice of the date, time, place and subject of the hearing to the person requesting the appeal and to the board and to the director of inspections, or the director's designee.

(g) All such appeals shall be on the record and shall be heard by the Public Safety and Regulatory Services Committee. The Public Safety and Regulatory Services Committee shall then make a recommendation to the city council.

(1) At the time of the Public Safety and Regulatory Services Committee public hearing, the committee shall hear from the person

requesting the appeal, any board member or their designee, and any other party who wishes to be heard regarding the appeal.

(h) The Public Safety and Regulatory Services Committee may reverse, confirm, or modify the board's order or decision and shall then make a recommendation to the city council.

(i) The city clerk shall mail a copy of the city council's decision of the appeal to the person making the appeal, the board chair, and the director of inspections, or the director's designee.

**248A.170. Denial, revocation, suspension or cancellation of license.**

(a) Any evaluator's license issued or proposed to be issued under this chapter may be denied, revoked, suspended, can celled or not renewed by an administrative decision by the director of inspections, or the director's designee, if the applicant or evaluator:

(1) Is convicted of any crime related to the licensed occupation, pursuant to Minnesota Statutes, Section 364.03, Sub. 2, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of the licensed occupation, pursuant to Minnesota Statutes, Section 364.03, Sub. 3.

(2) In the application process for issuance or renewal of a license knowingly falsifies, conceals, misrepresents or misstates any material fact or matter bearing upon the holder's eligibility or competency.

(3) Obtains, attempts to obtain, or assists another in obtaining or attempting to obtain an evaluator's license through fraudulent or other improper means.

(4) Fails to provide satisfactory proof of insurance insuring the applicant/evaluator and the city or allows such insurance to lapse.

(5) Fails to pay the required fees.

(6) Fails to promptly file any disclosure report.

(7) Has been the subject of substantiated complaints from residents using the applicant's evaluations services.

(8) Has demonstrated incompetency or inefficiency in conducting evaluations.

(9) Violates any of the provisions of this chapter or any conditions provided for in the license issued pursuant to this chapter.

(10) For just cause.

(b) If the director of inspections, or the director's designee, determines that a truth-in-sale of housing evaluator's license should be denied, suspended, revoked, canceled or not renewed under this section, the director of inspections, or the director's designee, shall send the applicant or evaluator a notice of denial, suspension, revocation, cancellation or nonrenewal.

(1) The notice shall state the proposed action to be taken and a summary statement of the reason or reasons that such action is recommended.

(2) The notice shall state that the proposed action will become final unless the applicant or evaluator files an appeal pursuant to sections 248A.160 and 248A.170.

**248A.180. Application fees, requirements and examination.** (a) Each person desiring an evaluator license shall file with the city at least three (3) business days prior to the date of examination, an application to take the required examination and shall pay the nonrefundable sum of seventy-five dollars (\$75.00) as an application fee.

(b) Each application shall contain the following information: name, address, place of current employment, time and place of schools attended and studies completed, together with a chronological record of the candidate's previous employment, with complete information regarding duties and type of work performed.

(c) The inspections division shall set standards regarding requirements to be met before applicants may take the examination. These requirements shall be given to each applicant upon request.

(1) Applicants not meeting these requirements will have their application and fee returned.

(d) The inspections division shall determine when and how often the examination shall be offered.

(e) The applications are public data under the Minnesota Data Practices Act and available to any person upon request.

**248A.190. Evaluator license and renewal requirements.** (a) Each applicant who successfully passes the examination required in section 248A.180 shall, upon payment of the nonrefundable sum of seventy-five dollars (\$75.00) to the city be issued an evaluator license.

(1) No license shall be granted to any person less than eighteen (18) years of age.

(2) No employee of the city shall be licensed under this chapter.

(3) Any person who passes the examination to become a truth-in-sale of housing evaluator has one (1) year from the date of the examination to obtain their license.

(4) The applicant will have to reapply and pass another examination if the applicant fails to obtain a license within that one (1) year period.

(b) Each evaluator who is eligible to renew their truth-in-sale of housing evaluator license shall pay the nonrefundable sum of seventy-five dollars (\$75.00) to the city for renewal of the license.

(1) Persons who have not renewed their licenses within one (1) year of the expiration date shall reapply and pass another city examination prior to re-licensing.

(2) All licenses under this chapter shall expire on December 31 of each year.

(c) The city may require each evaluator to attend city sponsored training. The city may charge reasonable fees for this training.

**248A.200. Duties of evaluators.** (a) Each evaluator shall comply with the following:

(1) Maintain a current license from the city.

(2) Maintain required insurance.

(3) Conduct an inspection of the property being offered for sale and conduct all evaluations within the program's guidelines.

(4) Meet required continuing education requirements established by the city.

(5) Not allow their truth-in sale of housing evaluator's license to be used by another person.

(6) Agree to comply to a code of ethics in performance of evaluation duties.

**248A.210. Insurance.** (a) Each evaluator must provide the city with a certificate of insurance showing proof of the following insurance coverage before receiving a license:

(1) General liability insurance with a minimum limit of liability of two hundred fifty thousand dollars (\$250,000.00) per occurrence and five hundred thousand dollars (\$500,000.00) per year general aggregate.

(2) Professional errors and omissions insurance with a minimum limit of liability of two hundred fifty thousand dollars (\$250,000.00) per occurrence and five hundred thousand dollars (\$500,000.00) per year general aggregate.

(3) Such insurance may include a deductible not exceeding five thousand dollars (\$5,000.00).

(4) The evaluator shall maintain insurance continuously in force thereafter and no license shall be deemed to be in effect when such insurance is not in effect.

(5) The insurance shall list the city as an additional insured and shall cover any and all liability from the performance of the duties as a licensed truth-in-sale of housing evaluator.

**248A.220. Report filing and filing fees.** (a) Each evaluator shall submit to the city, a true copy of each disclosure report within five (5) business days after the evaluation has been made. The copy shall be of the final report, either typewritten, computerized or legibly printed in ink, as furnished to the seller. A filing fee of twenty dollars (\$20.00) made payable to the Minneapolis Finance Department shall be required with each disclosure report submitted to the city.

(1) Information page(s) required by the city to be attached to the report do not have to be filed with the report as long as the evaluator signs the statement that these pages have been attached and given to the owner or representative of the owner.

(b) When the disclosure report is not filed or the required filing fee is not paid within the five (5) business day time limit set forth in this section, the fee for such filing of the required report shall be doubled for reports received within the next five (5) business day time limit.

(1) An additional ten dollars (\$10.00) late fee shall be added to the fees already due for each additional five (5) business day time period.

(c) Failure to comply with the provisions of the timely filing of reports or to pay the required filing fees is just cause to suspend, cancel, revoke or fail to renew the license of a truth-in-sale of housing evaluator.

**248A.225. Acknowledgement of Responsibility.** (a) The buyer, buyer's agent, and closer shall be jointly responsible for filing a completed Acknowledgement of Responsibility form with the Inspections Division within 10 days after closing.

(b) The Acknowledgement of Responsibility form shall be available from the Inspections Division. The form shall require information deemed appropriate by the Director of Inspections, including:

- (1) A statement that the buyer is required to complete all repair/replace items on the disclosure report within 90 days after closing;
- (2) The date(s) of sale and closing;
- (3) The address of the property;
- (4) The name(s), residential address(es) and signature(s) of all buyers;
- (5) The name(s) and address(es) of any representative of a buyer, including real estate agents;
- (6) The name(s) and address(es) of all seller(s);
- (7) The name(s) and address(es) of any representative of a seller, including real estate agents;
- (8) The name(s) and address(es) of the closer(s);
- (9) The form shall be accompanied by a copy of the disclosure report.

(c) An Acknowledgement of Responsibility form need not be filed if a certificate of approval has been issued to the seller pursuant to section 248A.110 prior to closing.

(d) Failure to comply with this section shall constitute a violation by the buyer, buyer's agent and the closer.

**248A.230. Fees for services.** Truth-in-sale of housing evaluators may charge a reasonable fee for their services.

**248A.240. Penalties.** (a) The failure of any owner, agent of an owner, buyer or any other person to comply with the provisions of this chapter or to comply with an order issued by the city pursuant to this chapter shall be a misdemeanor.

(b) The failure of any evaluator to comply with the licensing provisions of this chapter shall be a misdemeanor.

(c) The city may also enforce provisions of this chapter by mandamus, injunction, or other appropriate remedy in a court of competent jurisdiction.

**248A.250. Warranty limitations.** (a) Nothing in the evaluator's report shall guarantee or warrant that a dwelling meets all minimum maintenance, housing, and building standards.

(b) Evaluations conducted pursuant to this chapter are made in order to improve the overall housing stock in the city. The report issued by the evaluator is not a guarantee or warranty to any individual buyer, seller, or renter regarding the condition of the individual dwelling, nor is the report intended for the special benefit of any individual.

**248A.260. Effective date.** This chapter shall be effective for dwellings sold, closed, offered or listed for sale by exhibiting or showing on or after June 1, 2002.

(1) Truth-in-sale of housing reports completed before the effective date shall remain valid for one (1) year from the date of evaluation and for one (1) owner.

**248A.270. Severability.** If any section, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have adopted the chapter in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**248A.280. Residency or mailing requirements.** (a) Any person licensed under this chapter shall cause to keep registered with the city their current residency or business address. If either such residency or business address is outside the sixteen (16) county metropolitan area, as defined in chapter 244.1840, such licensed evaluator shall deliver to the city the name and current address of an agent or other person designated by that evaluator to accept service of process and to receive and give receipt for notices for and on behalf of such licensed evaluator, and such person shall be a resident of and be amenable by signed affidavit to such mailings within the same sixteen (16) county metropolitan area.

(b) A post office box is not acceptable as an address.